



Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Cobarc Services, Inc.--Reconsideration

File: B-252359.3

Date: August 3, 1993

Ralph H. Baldwin III, Esq., for the protester.
Paul E. Jordan, Esq., and Paul Lieberman, Esq., Office of
the General Counsel, GAO, participated in the preparation of
the decision.

DIGEST

Request for reconsideration of protest against award to
allegedly below cost proposal is denied where protester
essentially disagrees with prior decision and reiterates
arguments raised initially.

DECISION

Cobarc Services, Inc. requests reconsideration of our
dismissal of its protest of the award of a contract to Luzon
Services, Inc. by the Department of the Army, under request
for proposals (RFP) No. DAKF57-92-R-0007, for food services
at Fort Lewis, Washington. Cobarc had protested that the
agency should have considered Luzon's proposal to be outside
the competitive range because of its extremely low price.

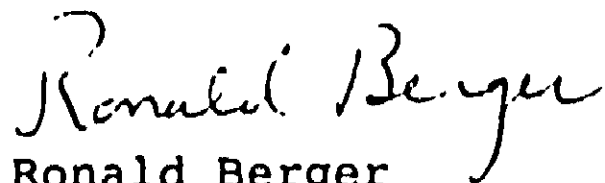
We dismissed the protest because we will not consider a
protester's claim that, in essence, an offeror submitted an
unreasonably low price. The submission of a below cost
offer is not itself legally objectionable. See H. Angelo &
Co., Inc., B-244682.2, Oct. 30, 1991, 91-2 CPD ¶ 407.
Whether a contract can be performed at the offered price is
a matter of the offeror's responsibility. Virginia Mfg.
Co., Inc., B-241404, Feb. 4, 1991, 91-1 CPD ¶ 113. We will
not review a contracting officer's affirmative determination
of responsibility absent circumstances not alleged here.
See 4 C.F.R. § 21.3(m)(5) (1993).

In its request for reconsideration, Cobarc also suggests
that the agency should have conducted a cost realism study
to determine the establishment of a proper competitive
range. Where fixed-price contracts are solicited, "cost
realism" ordinarily is not considered in the evaluation
since a firm, fixed-price contract provides for a definite
price and this contract type places upon the contractor the

risk and responsibility for all contract costs and resulting profit or loss. Fairchild Space and Defense Corp., B-243716; B-243716.2, Aug. 23, 1991, 91-2 CPD ¶ 190; Corporate Health Examiners, Inc., B-220399.2, June 16, 1986, 86-1 CPD ¶ 552. While agencies, in their discretion, may provide for a cost realism analysis in the solicitation of firm, fixed-price proposals for such purposes as measuring an offeror's understanding of the solicitation requirements, they are not required to do so. Corporate Health Examiners, Inc., supra. Here, since the RFP referred to consideration of unrealistic prices as indicative of a lack of technical competence or of a failure to comprehend the complexity of the requirements, but did not provide for a cost realism analysis, the protester's contention that the agency was required to conduct a cost realism study is without foundation.

The protester in essence repeats arguments it made previously and expresses disagreement with our decision. Under our Bid Protest Regulations, to obtain reconsideration the requesting party must show that our prior decision may contain either errors of fact or law or present information not previously considered that warrants reversal or modification of our decision. 4 C.F.R. § 21.12(a). The repetition of arguments made during our consideration of the original protest and mere disagreement with our decision do not meet this standard. R.E. Scherrer, Inc.--Recon., B-231101.3, Sept. 21, 1988, 88-2 CPD ¶ 274.

The request for reconsideration is denied.


Ronald Berger
Associate General Counsel